IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

ORDER

SB CIVIL WRIT PETITION NO.1716/1994
Sundar Lal Saini V/s Rajasthan State Road Transport Corporation & anr.

Date of Order : : 10.10.2004

PRESENT
HON'BLE MR. JUSTICE P.S. ASOPA

Mr.Rajendra Soni, for the petitioner.
Mr.Manish Bhandari, for the respondents.

By the instant writ petition, the petitioner has prayed for promotion on the post of Office Superintendent with all consequential benefits from the date when junior persons have been promoted.

The submission of counsel for the petitioner is that while regularly working as Office Assistant, the petitioner become due for promotion to the post of Office Superintendent, but the said promotion was not granted to him and the result of the DPC was kept in sealed envelope. During the pendency of the writ petition, the petitioner retired on 30.6.1994. and he is being paid the pension calculated on the salary of the post of Office Assistant.

The submission of Mr.Bhandari, counsel for the respondents is that the petitioner was asked to undergo a medical test, but he has avoided the same, therefore, result of the DPC was not opened. He also submits that there was adverse record also.

This Court on 30.8.2006 directed the counsel for the respondents to produce the DPC proceedings. On 4.9.2006, the said envelope was opened and after perusal, it was re-sealed and returned back.

Heard learned counsel for the parties, perused the record of the writ petition and considered rival submissions of the parties and further considered the DPC proceedings placed before me in a sealed cover.

The said DPC proceedings were re-opened and on 7.9.1988, the Departmental Promotion Committee after considering the personal file, ACRs and other record recommended the case of the petitioner for promotion to the post of Office Superintendent after examination of his mental condition by a Medical Board. Although, no rule has been cited before me which requires the medical certificate from the psychiatrist for promotion, but by going through the norms of promotion and case, the efficiency of a persons is adjudged by personal file, annual confidential report and other record. In case a conditional promotion is given to a person, who has worked satisfactorily on the lower post then there is no need of further examination by a Medical Board. As regard mental condition of the incumbent, the submission of Mr.Soni, counsel for the petitioner is that the petitioner was working on the

lower post of Office Assistant satisfactorily, was not required for any further medical examination for promotion, has some force. Even if it is assumed that the Corporation has a right to examine the incumbent by a Medical Board for promotion then also by passage of time, now it is not possible to adjudge the mental state of affairs of the petitioner on 30.6.1994 and after his retirement, there is no use to ask him to go for medical examination. From the record and the reply as well as DPC proceedings, it is not reflected that work of the petitioner was not satisfactory. Apart from the petitioner retired on 30.6.1994 during pendency of the writ petition and in view of changed circumstances, in case a direction is given for his promotion then he is only entitled for notional fixation on the promotional post and revision of the pension accordingly.

Accordingly, I direct the Corporation to grant the petitioner promotion on the post of Office Superintendent from 7.9.1988 and fix his pay on the post of Office Superintendent notionally and grant the consequential benefits.

The writ petition is disposed of.

(P.S. ASOPA) J.

ummed/-